

भारत सरकार  
GOVERNMENT OF INDIA



# लद्दाख का राजपत्र The Ladakh Gazette

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Part II - Section 3

केन्द्र-शासित प्रदेश लद्दाख प्रशासन  
ADMINISTRATION OF UNION TERRITORY OF LADAKH

**Health and Medical Education Department, Civil Secretariat, Leh.**

**NOTIFICATION**

**Leh 06-04-2022**

**S.O. 41**—In exercise of the powers conferred by sub-section (1) of section 49 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (16 of 2017), the **Lieutenant Governor** of Union territory of Ladakh hereby make the following rules for the effective implementation of the Act, namely, Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (16 of 2017).

**CHAPTER – I**  
**Introduction and Definitions**

- Short title, extent and commencement.**— (1) These Rules may be called the Union territory of Ladakh Human Immunodeficiency Virus and Acquired Immune Deficiencies Syndrome (Prevention and Control) Rules, 2022.  
(2) These Rules shall extend to the whole of the Union territory of Ladakh.

- (3) These Rules shall come into force on and from the date of its publication in the Official Gazette of the Union territory of Ladakh.

**2. Definitions.-**

- (1) In these Rules, unless the context otherwise requires,—

- (i) “Act” means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (No.16 of 2017);
- (ii) “Appropriate Authority” means unless otherwise notified,—
- (a) the National AIDS Control Organization (NACO) in the case of the Union Government; and
  - (b) Union territory of Ladakh AIDS Control Society (as and when formed) in the case of the Administration of Union territory of Ladakh;
  - (iii) “ART” means Anti-Retroviral Therapy;
  - (iv) “CBO” means a Community Based Organization either a public or private non-profit organization which works to meet the needs of the intended community.
  - (v) “CBS” means Community-based Screening.
  - (vi) “CSO” means Civil Society Organization.
  - (vii) “Child Welfare Committee” means Child Welfare Committee constituted under Section 27 the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act No. 2 of 2016);
  - (viii) “Complaint” means any information or grievance made orally or in writing to the Ombudsman or other modes to the Ombudsman or to the competent Court as mentioned in Rules 10 and 11 of these Rules;
  - (ix) “DAPCU” means District AIDS Prevention and Control Unit;
  - (x) “District” means revenue district of the UT of Ladakh;
  - (xi) “District Level Network” (DLN) means a CBO that consists of People Living with HIV/AIDS (PLHIV) registered under The UT of Ladakh Societies Registration Act;
  - (xii) “DLSA” means District Legal Services Authority;
  - (xiii) “EID” means Early Infant Diagnosis;
  - (xiv) “EMTCT” means Elimination of Mother to Child Transmission of HIV/AIDS
  - (xv) “Form” means the form annexed to these Rules or any such form as may be notified from time to time by the Administration of UT of Ladakh to be used for the purpose of the Act and these Rules;
  - (xvi) “F-ICTC” means Facility Integrated Counselling and Testing Centre;
  - (xvii) “ICTC” means Integrated Counselling and Testing Centre;
  - (xviii) “LWS” means Link Worker Scheme;
  - (xix) “NACO” means national AIDS Control Organization;
  - (xx) “NGO” means Non-Governmental Organization;
  - (xxi) “Network” is a CBO of People Living with HIV/AIDS (PLHIV) in the UT of Ladakh;
  - (xxii) “OI” means Opportunistic infections like tuberculosis, diarrhoea, etc.;
  - (xxiii) “Ombudsman” means an officer appointed or designated by the Administration of UT of Ladakh under Section 23 of the Act, to inquire, to make findings based on the complaints received and pass appropriate orders;
  - (xxiv) “PLHIV” means People Living with HIV/AIDS;
  - (xxv) “UTLACS” means UT Ladakh AIDS Control Society;
  - (xxvi) “TI” means Targeted Intervention;
  - (xxvii) “Protected Person” means the HIV infected and affected person who cohabits and resides with HIV positive person as defined under Sub-Section (s) of Section 2 of the Act;
  - (xxviii) “Rules” means The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Rules, 2022;
  - (xxix) “Section” means section of the Act;
  - (xxx) “Selection Committee” means a committee constituted by the Administration of UT of Ladakh under Rule 4 of these Rules;
  - (xxxi) “UTLLSA” means UT Ladakh Legal Services Authority;

(xxxii) “Stakeholders” are agencies, organizations and persons who are involved in the prevention, treatment, care and support programmes or who directly or indirectly contributing to the programmes of Department of Health and Medical Education, Administration of UT of Ladakh;

(xxxiii) “UT Level Network” (UTLN) means a CBO that consists of PLHIVs registered under the UT Ladakh Societies Registration Act and that functions in more than one district in the State of UT Ladakh;

(xxxiv) “UWP” means Universal Work Precautions.

(2) Words and expressions used herein but not defined in these rules but defined in the Act shall have the meanings assigned to them in the Act.

## **Chapter-II**

### **Provision of Prevention, Testing & Diagnostic and Treatment Facilities**

3. In order to prevent HIV among the general public, Union Territory of Ladakh AIDS Control Society, herein after referred to as UTLACS shall-
  - (a) publish HIV and AIDS related information, education and communication materials which are age-appropriate, gender-sensitive, non-stigmatizing and non-discriminatory. These materials shall cover the topics such as General Awareness on HIV/AIDS, Safe sex practices, Condom Promotion, Safe Injecting methods, EMTCT, etc.
  - (b) undertake special campaigns in the districts through DAPCUs from time to time on Basics of HIV/AIDS, Safe Sex Practices, Condom Promotion and Safe Injecting methods;
  - (c) Further enhance programmes such as EMTCT, EID, TI, LWS and CBS following the guidelines formulated by NACO.
4. As per section 14 of the Act, UTLACS in consultation with the Department of Health and Medical Education, Administration of UT of Ladakh and under the guidance of NACO shall-
  - a. Provide HIV testing to all persons through mobile ICTCs and also through ICTC and F-ICTC situated in all Government Health Facilities (Government Hospitals and Primary health Centres) across the UT of Ladakh;
  - b. Provide diagnostic and treatment services to all PLHIVs through ART centres and other Government Health Facilities (Government Hospitals, Primary Health Centres and Community Health Centres) across the UT of Ladakh;
  - c. Manage Ols at the level of all Government Health Facilities (in Government Hospitals, Primary Health Centres and Community health Centres) having ART/Link ART centres and it shall be ensured that all Ol drugs are made available;
  - d. Ensure quality of testing and treatment services provided.

## **CHAPTER –III**

### **The Ombudsman**

5. Designation of Ombudsman: -
  1. An officer not below the rank of Joint Secretary, Department of Health and Medical Education, Administration of Union territory of Ladakh shall be designated as Ombudsman for the Union Territory of Ladakh by Administration. Upon the notification of this Rule, this designation shall be perpetual and automatic on the office of the Officer designated as Ombudsman and this is construed as binding on all incumbent official who assumes the office in future without the requirement of any fresh order.
  2. Jurisdiction of Ombudsman: -
    - a. The jurisdiction of the Ombudsman shall extend to the entire UT in line with the existing administrative mechanism as stipulated by the Administration of UT of Ladakh.
    - b. The Office of the Ombudsman shall be situated at the Secretariat, UT of Ladakh.
    - c. The Ombudsman shall also be an ex-officio member of the UT Grievances Redressal Mechanism constituted under the National HIV Prevention and Care Programme of NACO.

3. Term of the Office of Ombudsman:
  - a. The term of the Office of the Ombudsman shall be bound on the office and tenure of the official in the said post and the next official shall be the Ombudsman by virtue of the appointment by the Administration of UT of Ladakh.
4. Functions and responsibilities of the Ombudsman: - The Ombudsman shall
  - a. Take cognizance of complaints and conduct inquiry into the violations of the provisions of the Act in relation to the acts of discrimination mentioned in Section 3 of the Act and in particular in providing of healthcare services to any person including children affected/infected by HIV/AIDS, in such manner as prescribed in Rule 4 of these Rules;
  - b. Adjudicate and dispose of complaint of violations in relation to the provisions of the Act and these Rules.
  - c. Ensure that the rights and entitlements as enshrined in various Acts of the Union of India such that the children infected/affected by HIV/AIDS of the persons infected/affected by HIV/AIDS are protected and pass necessary advice to the authorities for protection of rights of the child infected/affected or person infected/affected by HIV/AIDS;
  - d. Transfer the complaints or matters concerning the children infected/ affected by HIV/AIDS or the persons infected/affected by HIV/AIDS to other competent authorities like Child Welfare Committee, Protection Officers, etc. of the respective districts of the complainant, working as per the provisions of Juvenile Justice Act or any other relevant Act where the concerned Ombudsman has jurisdiction in the matter;
  - e. Conduct regular inspection visits of healthcare providers and institutions where the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS are living and recommend action for improvement in quality of services to the Administration of UT of Ladakh or to the Chief Medical Officer/Deputy Director/Director of Health Services in the respective jurisdictions.
  - f. Take Suo Motu Cognizance of Cases and reach out to the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS.
  - g. Deal with cases pertaining to HIV/AIDS. referred by the Administration of UT of Ladakh or other authorities within the ambit of the Act;
  - h. Assess appropriate legal services for the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS;
  - i. Issue recommendations to the Administration of UT of Ladakh for effective implementation of the Act and these Rules through the project Director, UTLSACS as it deems fit or as necessitated.
  - j. Coordinate in the context of the case, with the health, medical, police, social welfare department and other agencies involved in the welfare of the children infected/affected by HIV/AIDS or the persons infected/affected by HIV/AIDS;
  - k. Take cognizance of the complaints brought to the office of the Ombudsman through the respective DAPCUs – the complaints that are not settled within 30 days by the Complaint officers, who are appointed/designated as per Section 21 of the Act in the establishments, ensure to conduct proper inquiries without any propriety/ prejudice, adjudicate it and dispose it off within the stipulated period of time as per Rule 10(g) of these Rules;
  - l. The Ombudsman may get expert opinion in writing on the medical aspects of the complaint, if need be, from the Joint Director, care, Support & Treatment Division, UTSACS; on the administrative aspects from the project Director, UTSACS and on the legal aspects from the Secretary, DLSA/SLSA, Ladakh.
  - m. Decide on the complaint within 3 months of taking the complaint on record.
5. Manner of making complaints: -
  - a. Any person may make a complaint to Ombudsman within three months from the date that the person making the complaint became aware of the alleged violation of the Act and these Rules- provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to

- make the complaint by a further period of three months, if it is evident from the fact that circumstances prevented the complainant from making the complaint within the stipulated period;
- b. All complaints shall be made to the Ombudsman in writing in accordance with the form attached to these Rules;
  - c. The Ombudsman may receive complaints made in person or via post or through email or telephonically, or through any other electronic form that may be recorded in printable format;
  - d. Where a complaint cannot be made in writing the Ombudsman shall render all reasonable assistance to the complainant to produce the complaint in writing;
  - e. ADLN/SLN/CSO/CBO/NGO and other State Level Grievance (SLN) Redressal Committee member with a written consent of protected person may file a complaint on behalf of the protected person if the concerned protected person is not willing to file a complaint to Ombudsman directly due to fear or stigma-related issues;
  - f. Sue Muto Case, after it is taken on a file, shall be recorded by the Ombudsman in printable format;
6. Manner of Inquiring into the complaints by the Ombudsman: -
- 1. The Ombudsman shall act in an objective and independent manner when inquiring into the complaints made under the Act and these Rules: -
    - a. On receipt of a complaint or while taking Suo Motu cognizance, the Ombudsman shall hold an inquiry in such manner as deemed in order to ascertain the facts of the case;
    - b. Inquiry shall satisfy the basic principles of natural justice and both the complainant and the accused/respondent shall be given reasonable opportunity to be heard and in appropriate cases, the Ombudsman shall receive evidence on affidavits – provided that cross- examination shall be permitted in inquiries before the Ombudsman only.
    - c. The Ombudsman shall conduct the inquiry in a friendly manner and shall not use accusatory words or words that adversely impact the dignity or self- esteem of the complainant/ accused/ respondent especially if they are infected/affected by HIV/AIDS;
    - d. The Ombudsman, while holding the inquiry, shall protect the identity of the protected person by following procedures mentioned in Rule 11 of these Rules and Section 34 of the Act;
    - e. No cross-examination shall be permitted in inquiries before the Ombudsman.
    - f. The Ombudsman may, in the interest of justice, take the assistance of specialized experts as it deems, including protected persons, persons vulnerable to HIV and AIDS, public health or health delivery systems or NGOs/CBOs having experience in working with the protected persons for the purpose of arriving at a conclusion;
    - g. The Ombudsman shall have the power to pass interim orders in cases of medical emergency including directing admissions, operations or treatment and in the provisions of UWP in a healthcare setting;
    - h. The Ombudsman shall, within a period of thirty days of the receipt of the complaint, having followed the above- mentioned procedures, pass such order as it deems, giving reasons thereon;
    - i. The ombudsman shall have the power to pass orders including to, withdrawal and rectification of the violation, counselling, social service etc.
    - j. If any aggrieved person is not satisfied with the orders passed by the Ombudsman, he may approach the Secretary, Health & Medical Education Department, Administration of UT of Ladakh within 30 days from the date on which order passed by Ombudsman has been received in writing under the provision of the Act.
    - k. The Ombudsman shall inform the complainant about the action taken in relation to the complaint and shall be responsible for ensuring that the complaint, its number and nature, the action taken and the orders passed in relation to such complaint are duly recorded and maintained and shall provide the copies of the same to the parties concerned when duly applied in writing.

- l. The Ombudsman shall provide all parties to the complaint with copies of the written order within 7 days of deciding on the complaint;
  - m. The Ombudsman shall inform the parties to the complaint of their right to seek judicial review on the Ombudsman's order.
  - n. The Ombudsman shall follow strict confidentiality of the protected person while writing, printing or reporting the cases/complaints to appropriate authorities;
  - o. All reports received from the officers or healthcare providers or institutions related to any child infected/affected by HIV/AIDS or any person infected/affected by HIV/AIDS shall be treated as confidential by the ombudsman and shall not be disclosed or shared with anyone.
  - p. The Ombudsman shall submit a quarterly report to Department of Health and Medical Education Department, Administration of UT of Ladakh through UTLSACS on the nature of disposal of cases and pendency of cases, in the manner as prescribed, and the same shall be submitted before Executive Committee (EC)/General Body (GB) of UTLSACS by the Project Director, UTLSACS for the review of the pending cases;
7. Manner of maintaining records by Ombudsman: - The Ombudsman shall
  - a. On receiving the complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
  - b. Record the time of the complaint and the action taken on the complaint in the register;
  - c. Maintain the register of complaints in a manner that ensures confidentiality of data;
  - d. Comply with data protection measures in accordance with Section 11 of the Act;
  - e. On receiving the complaint, acknowledge it by sending the unique complaint number to the complainant by SMS or e-mail or by telephonic communication whichever mode is available to the complainant;
8. Disseminate information about the Ombudsman: -
  - a. UTLSACS under the Administration of UT of Ladakh, from time to time, shall disseminate information to the general public about the office of the Ombudsman, including the Ombudsman's jurisdiction, role, functioning and procedures and the manner in which complaints can be made to the Ombudsman;
  - b. Dissemination shall be undertaken to advance the understanding, in particular, of protected persons, healthcare workers, legal and civil authorities.

#### **CHAPTER – IV** **Confidentiality Provisions**

9. Manner of recording pseudonym and providing suppression of identity in legal Proceeding: -
  - a. In any legal proceeding where a Court, on an application made by a protected person or any other person, that in the interests of justice the proceedings or any part thereof be conducted by suppressing the identity of such protected person, the Registrar of the Court shall direct all parties involved to: -
    - (i) File one copy of the documents bearing the full name, identity and identifying details of the parties concerned before the court, which shall be kept in a sealed cover and in safe custody with the Registrar/Superintendent of the Court;
    - (ii) Serve one copy of documents bearing the full name, identity and identifying details of the parties concerned upon other parties in the proceeding with a requirement to ensure that the full name and identity of the parties concerned are kept confidential;
  - b. The Registrar/Superintendent of the Court shall provide pseudonyms to protected persons involved in the legal proceedings in the documents filed before the Court in such manner that the identity and identifying details of the protected person involved in the legal proceeding are kept confidential;

- c. The Registrar/Superintendent of the Court shall place the sealed-cover documents before the court on the first date the legal proceeding is listed for hearing before the Court, if so, required by the Court;
- d. The identities of the protected person involved in the legal proceeding and their identifying details shall displayed in pseudonym in all documentation generated by the Court in relation to the legal proceeding, including listing of the case on the Court Board, interim orders and final judgements;
- e. The identity and identifying details of the protected person involved in the legal proceeding shall not be revealed by any person or their representatives including office assistants and staff of the Court;  
Exception: Where in the interest of justice the name and identity of the protected person needs to be revealed to a third party; it shall only be allowed by an order of the Court;
- f. Printing or publishing any matter in relation to the aforementioned legal proceedings concerning a protected person in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding;

#### **CHAPTER – V** **Miscellaneous**

Non-Compliance of the Act and Rules: - Administration of UT of Ladakh shall take action after due inquiry under the prevailing service rules against such person or officer or healthcare provider or institution or Ombudsman, being in government service, who fails to comply with the provisions of the Act and these Rules. During the period of inquiry, alternative arrangement shall be made, in place of Ombudsman to discharge the functions for effective and uninterrupted implementation of the Act and these Rules.

10. Protection of action taken in good faith:- No suit, prosecution or other legal proceeding shall lie against such person or officer or healthcare provider or institution or Ombudsman, being in government service, or any person acting under the directions of the Ombudsman or the Administration, as the case may be, in respect of anything which is done in good faith or intended to be done in pursuance of this Act or of any Rules made there under.

**By order of the Lieutenant Governor.**

(-sd-)  
**(Dr. Pawan Kotwal) IAS,**  
**Principal Secretary,**  
**Health & medical Education Department,**  
**UT of Ladakh.**

Efile No: M/124/202

Dated: 08-04-2022

Enclosure: Form for making complaint to Ombudsman.

**Copy to:**

1. Additional Secretary, JK & Ladakh Division, Ministry of Home Affairs, Govt. of India.
2. Additional Secretary, Ministry of Health & Family Welfare, Govt. of India.
3. Deputy Commissioner, Leh/ Kargil for information & necessary action.
4. Director Health Services, UT of Ladakh.
5. CMO, Leh/Kargil for information and necessary action.
6. Technical Director, NIC for uploading on official website.
7. OSD to Hon'ble Lieutenant Governor for kind information of Hon'ble Lieutenant Governor.
8. OSD to the Advisor to Hon'ble Lieutenant Governor for kind information of Advisor.

9. OSD to Principal Secretary, Health & Medical Education Department for kind information of Principal Secretary.

(Dr. Iftakhar Ahmed Chowdhary ) IRS,  
Additional Secretary,  
Health & Medical Education Department,  
UT of Ladakh.



## ANNEXURE

FORM FOR MAKING COMPLAINT TO OMBUDSMAN

For office use only: -

1. Unique Complaint Number: \_\_\_\_\_
2. In-Referral: - Self /SLNs/DLNs/ NGOs/CBOs/Other \_\_\_\_\_
3. Name/Pseudonym \_\_\_\_\_ Date: \_\_\_\_\_
4. Phone/Mobile No: \_\_\_\_\_
5. Email: \_\_\_\_\_
6. Fax: \_\_\_\_\_
7. Address for communication \_\_\_\_\_  
\_\_\_\_\_
8. Nature of Complaint \_\_\_\_\_
9. Date of Incident \_\_\_\_\_
10. Place of Incident \_\_\_\_\_
11. Description of incident  
\_\_\_\_\_  
\_\_\_\_\_
12. Person / Institution responsible for the incident: - \_\_\_\_\_

Signature / Thumb Impression of Complainant

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